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D&P

February 6, 2018

Via E-mail ([Gary.Eidelman@saul.com](mailto:Gary.Eidelman@saul.com)) ([Gillian.Cooper@saul.com](mailto:Gillian.Cooper@saul.com))

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U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

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Re: *Barger v. First Data Corporation et al.* - Civil Action No. 1:17-cv-4869  
Plaintiff's Motion for Partial Judgment on the Pleadings pursuant to F.R.C.P.12(c)  
Notice of Motion and Memorandum in Support

Dear Gary and Gillian:

In response to your assertion that the Plaintiff's Motion for Partial Judgment on the Pleadings pursuant to F.R.C.P. 12(c) served on February 2, 2018 did not comply with Local Rule 11.1. Pursuant to Judge Block's Individual Motion Practice, attached is the following document revised to comply with that Local Rule:

Notice of Motion and Memorandum in Support of Motion for Partial Judgment on the Pleadings pursuant to F.R.C.P. 12(c) with respect to interference with Plaintiff Barger's right to be restored under the FMLA, 29 U.S.C. §2914(a)(1), by Defendants First Data Corporation, Bisignano, Charron, and Marino.

As noted in your letter of February 5, 2018, this Motion replaces in its entirety the Motion served on February 2, 2018, and a new briefing schedule will be noticed to the court reflecting February 6 as the Motion delivery date with corresponding changes to the Opposition and Reply, and again noting your allegation that the Motion requires to be converted to a Rule 56 motion.

Very truly yours,



Shawn E. Shearer

Attachment (Notice of Motion and Memorandum)

cc (w/o attachment; USPS)

Honorable Frederic Block, U.S.D.J.  
U.S District Court for the Eastern  
District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Honorable Lois Bloom, Magistrate Judge  
U.S District Court for the Eastern  
District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201